IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7746 of 1999

to

FIRST APPEALNo 7814 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

BHALABHAI RUPABHAI BHARWAD

Appearance:

MR AD OZA, GOVERNMENT PLEADER for appellant

MR GM AMIN for respondent-claimant

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.C.PATEL

Date of decision: 27/09/2000

COMMON ORAL JUDGEMENT

(Per : Panchal, J.)

Admitted. Mr. G.M.Amin, learned counsel waives service of notice on behalf of the respondent - claimant in each appeal.

Having regard to the facts of the case and in view of the joint request made by the learned counsel appearing for the parties, the appeals are taken-up for final hearing today.

All these appeals which are filed under section 54 of the Land Acquisition Act,1894 read with section 96 of the Code of Civil Procedure, 1908, are directed against common judgment and award dated February 9, 1999, rendered by the learned Assistant Judge, Sabarkantha at Himatnagar, in Land Acquisition Cases No.3741/89 to 3817/89 by which the claimants are awarded compensation at the rate of Rs. 110/- per Are for irrigated lands and Rs.82.50 ps. per Are for non-irrigated lands. As common questions of facts and law arise for our consideration, we propose to dispose of all these appeals by this common judgment.

2. A proposal was made to the State Government to acquire agricultural lands of village Kidiad, Taluka : Malpur, District : Sabarkantha for the public purpose of 'Vatrak Jalagar Yojna'. On scrutiny of the said proposal the State Government was satisfied that agricultural lands of village Kidiad,Taluka : Malpur were likely to be needed for the said public purpose. Therefore, notification under Section 4(1) of the Land Acquisition Act, 1894 ('Act' for short) was issued which was published in the Government Gazette on January 16, 1975. Those persons whose lands were sought to be acquired were served with notices and they had filed their objections. After considering their objections, the Special Land Acquisition Officer had submitted his report to the State Government as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the lands, which were specified in notification published under Section 4(1) of the Act, were needed for the public purpose of 'Vatrak Jalagar Yojna'. Therefore, declaration under Section 6 of the Act was made, which was published in the Government Gazette. Thereafter, interested persons were served with notices under Section 9(3) of the Act for determination of compensation. Pursuant to the notices under Section 9(3) of the Act, the owners of the lands under acquisition claimed compensation before the Special Land

Acquisition Officer at the rate of Rs.10/- per sq.mtr. The Special Land Acquisition Officer, on the basis of materials placed before him, made his award on March 31, 1976 and offered compensation to the claimants at the rate of Rs.3300/- per Acre for the irrigated lands and Rs.2000/- per Acre for the non-irrigated lands. The claimants were of the view that the compensation offered by the Land Acquisition Officer was inadequate and, therefore, they accepted the amount of compensation under protest. By filing applications under section 18 of the Act, they required the Special Land Acquisition Officer to refer the matters to the District Court for determination of appropriate amount of compensation. Accordingly, references were made to the District Court, Sabarkanatha, at Himatnagar, which were numbered as Land Acquisition Cases Nos. 3741 of 1989 to 3817 of 1989. Before the Reference Court, the claimants had claimed compensation at the rate of Rs.10000/- per Are, i.e. Rs.10/- per sq.mtr. The reference court by an order which was passed below Exh.5, had consolidated all the Land Acquisition Cases and Land Acquisition Case No. 3795/89 was treated as the main case in which the parties had led common evidence. The Special Land Acquisition Officer had contested the reference applications by filing reply at Exh.7. Upon rival assertions of the parties, issues for determination were framed by the reference Court at Exh.6. On behalf of the claimants, (i) witness Pujabhai Jivabhai Bharwad was examined at Exh.16, (ii) Khemabhai Nakhabhai was examined at Exh.148 and (iii) Ramsinh Kanabhai Bharwad was examined at Exh.152. The claimants had also produced documentary evidence consisting of Extract of Village Form No. 7/12 relating to the acquired lands at Exhs.21 to Exh.147, previous award of the Reference Court with regard to acquired lands of village Medi Timba at Exh.70, sale deed of the land of village Fansarel at Exh. 18, and price list of Agricultural Produce Market Committee of Village Malpur, at Exh. 154 to substantiate their claim for enhanced compensation. On behalf of the present appellant, no witness was examined, nor any documentary evidence was produced to substantiate the claim advanced in the written statement. The reference Court on over all appreciation of oral as well as documentary evidence, by judgment and award dated February 9, 1999 held that the claimants were entitled to compensation at the rate of Rs. 165/- per Are for irrigated lands and Rs. 110/-per Are for non-irrigated lands.

3. Feeling aggrieved by the said judgment and award, the claimants had preferred First Appeals No. 3920/99 to 3988/99 and the Division Bench of this Court by judgment

dated September 15, 1999 has held that the claimants were entitled to compensation, in all, at the rate of Rs.4/- per sq.mt. for the acquired lands.

4. The judgment and award of the reference court which was subject matter of challenge in First Appeals No.3920/99 to 3988/99 is subject matter of challenge in the present appeals. When First Appeals No.3920/99 to 3988/99 were decided, these appeals filed by the State Government could not be placed before Court for hearing, as there was delay in filing the appeals and delay was not condoned. However, the fact remains that the judgment and award of the reference Court which is impugned in the present group of appeals, was subject matter of challenge in First Appeals No. 3920/99 to 3988/99 which are decided on September 15, 1999 holding that the claimants were entitled to compensation at the rate of Rs. 4/- per sq.mt. and, therefore, the contention raised in these appeals that the amount awarded by the reference Court is excessive,cannot be accepted. Having regard to the facts of the case and in view of the reasons stated by the High Court in judgment dated September 15, 1999 rendered in First Appeals No. 3920/99 to 3988/99, we are of the opinion that these appeals cannot be entertained and are liable to be dismissed.

For the foregoing reasons, all the appeals fail and are summarily dismissed.

(J.M.Panchal,J.) (M.C.Patel,J.)